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CAMPAIGN FINANCE GUIDE FOR BALLOT QUESTION COMMITTEES

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This brochure is designed to introduce the state campaign finance law to treasurers of political committees organized to favor or oppose a question appearing on the state ballot. The Office of Campaign and Political Finance (OCPF) is responsible for administering and enforcing Massachusetts General Laws Chapter 55, the campaign finance law. The office is available to assist individuals in complying with the statute and encourages candidates, treasurers, committee members, campaign workers and any interested persons to familiarize themselves with these laws and regulations.

This publication is meant only to be an introductory guide to the campaign finance law, not a substitute for it. It is the responsibility of all those participating in political campaign financing in Massachusetts to become familiar with the provisions of the law and regulations. Violations of the law carry serious penalties of fines, imprisonment or both. For additional information, please contact the

Office of Campaign and Political Finance
One Ashburton Place, Room 411
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(617) 727-8352
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About the Office of Campaign and Political Finance

Chapter 1173 of the Acts of 1973 strengthened the state campaign finance law and established the Office of Campaign and Political Finance. While the 1970s saw a push for reforms in campaign finance disclosure laws all across the country, portions of the campaign finance law were on the books in Massachusetts as early as 1884. Some of those original laws provide for restrictions on and protections for public employees and will be discussed later in this brochure. Significant changes to the law were made through Chapters 43 and 292 of the Acts of 1994. Some of these changes affect ballot question committees and are addressed in detail in this brochure.

The Campaign Finance Law

Chapter 55 of the Massachusetts General Laws is a comprehensive statute governing the financing of political campaigns in the Commonwealth. The statute requires, for example, that candidates and political committees disclose all contributions received and expenditures made. The campaign finance law also provides for limitations, and in some cases absolute prohibitions, on certain sources of campaign contributions. Additionally, the way in which campaign funds may be spent is regulated through the statute as well as through regulations and guidelines established by OCPF. Chapter 55 also regulates certain conduct in connection with the raising and spending of campaign funds, such as the activities of public employees and the prohibited use of governmental resources for political purposes. OCPF has promulgated regulations (970 CMR) on contributions and expenditures which should be consulted for more specific guidelines on these requirements.

The State Ballot Question Committee

A ballot question, or referendum, committee is defined as "a political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter change, an initiative or referendum question or a constitutional amendment." If you are thinking of undertaking any activity related to a ballot question, you should contact OCPF prior to doing so. Expenditures made early in the initiative petition process may be subject to the provisions of Chapter 55. If a ballot question appears on the state ballot, a committee favoring or opposing such a question must organize and file reports with OCPF prior to raising any money. This brochure is designed to assist you in this process.

If the question appears on a municipal ballot, the committee should contact OCPF or the city, town or district clerk or election commission for the proper filing requirements. Consult OCPF's "Campaign Finance Guide for Municipal Ballot Question Committees" for further information.

Forms

To familiarize you with the appropriate forms required for ballot question committees, a summary of these forms and an explanation of their purpose is provided here. OCPF staff will, upon request, review with you these forms and the procedures for filing them.

FORM CPF 101 BQ: Statement of Organization Ballot Question Committee

By law, the name of a ballot question committee must clearly identify the economic or other special interest of a majority of its contributors, and, if a majority of its contributors share a common employer, identifies that employer. If the economic or other special interest or common employer of contributors is not identifiable, then the committee must use a name which clearly identifies the economic or other special interest of a majority of its organizers, and, if a majority of its organizers share a common employer, identifies that employer. If the committee is organized, financed, controlled or maintained by an individual, the name of the committee must identify that individual. No ballot question committee shall use any name other than the name included in its Statement of Organization.

A ballot question committee may not accept any contributions nor incur any expenses until its treasurer qualifies for such office by completing, signing and filing Form CPF 101 BQ with the office. This form contains the names and addresses of the committee chairman, treasurer and any other officers, including finance committee members, if any. Any change in information previously submitted should be reported to OCPF within 10 days of such change. Political committees are prohibited from receiving or expending funds without a qualified treasurer. Any change in treasurer should therefore be submitted by completing Form CPF T 101 (Change of Treasurer) and filing it immediately with OCPF.

By law, a committee must name a chairman and a treasurer. The chairman and the treasurer may be the same person, unless that person is a public employee. A public employee may not serve as the treasurer of any political committee since such a position would involve the solicitation and/or receipt of monies for a political purpose, which is prohibited by law. (See section on public employee restrictions.)

FORM CPF 102 BQ: Campaign Finance Report

Every ballot question committee is required to complete and file Form CPF 102 BQ with OCPF on or before each reporting date as discussed in the next section. The committee treasurer signs this report under the penalties of perjury and is responsible for the legality, validity, completeness and accuracy of each of the reports. The following information should be filed on or with Form CPF 102 BQ:

Schedule A - Receipts: An alphabetical listing of all contributions in excess of $50 in a reporting period, including the date the contribution was received and the address of the contributor, which, if the contributor is an individual, must be his or her residential address. This information must also be reported for receipts of $50 or less if the total contributions from the contributor have exceeded $50 in the calendar year. Otherwise, receipts of $50 and under are totaled on one line and included in total receipts. However, complete information, including date, name, address and amount must be kept by the committee regardless of the amount of the contribution. If the contribution is $200 or more, or if the individual's total contributions are $200 or more in the calendar year, the occupation and employer of the contributor must also be disclosed. Contributions from PACs must be reported alphabetically be PAC name and include the PAC identification number as assigned by OCPF.

Schedule B - Expenditures: An alphabetical listing of all disbursements in excess of $50 with the amount and date of payment, the name and address of the payee and the purpose of the expenditure. Those amounts of $50 or less are totaled on one line and included in the total expenditures.

Schedule C - In-Kind Contributions: An alphabetical listing of all in-kind contributions of anything of value other than money with a value in excess of $50 in a calendar year. This listing includes the date, the name and residential address of the contributor and a description of the contribution. The occupation and employer of any contributor of $200 or more in in-kind goods or services, or a combination of money and in-kind contributions, is also required. For those contributions valued at $50 and under, a one-line total is included in the total of all in-kind contributions for the period. In-kind contributions do not include volunteers' personal services or the exercise of ordinary hospitality.

Schedule D - Liabilities: An alphabetical listing of all outstanding unpaid obligations, including loans, as of the last day of the reporting period, regardless of when the liability was incurred. Included is the amount, the date the liability was incurred, the name and address to whom it is due and the purpose of the liability. Liabilities are carried over from each report to the successive report until such time as they are satisfied.

Schedule E - Disclosure of Assets Statement: A listing of all assets acquired or disposed of during that calendar year which have a useful life of more than one year, would be depreciable in a normal business environment, and have a cost/value of $1,000 or more at the time of acquisition. This schedule is filed only once each year with the Form CPF 102 BQ, due on or before January 20, or upon dissolution of the committee.

All of the above information is summarized in a schedule on the front page of Form CPF 102 BQ. Detailed instructions for completing Form CPF 102 BQ are available from OCPF. Records of all receipts and expenditures must be maintained by the committee for all of its activities, regardless of amount, and are subject to review by OCPF. Treasurers of all political committees organized in Massachusetts are required by law to preserve detailed accounts, vouchers and receipts for six years from the date of the relevant election.

Dissolution of a Committee

Ballot question committees must dissolve once a final determination regarding the adoption or rejection of the question has been made by the voters. Consult this office prior to preparing your request for dissolution.

Committees must show no cash balance, liabilities or assets in order to be able to dissolve.

M.G.L. Chapter 55, section 18 provides that all residual funds from campaign accounts should be donated to one of the following: (1) the Commonwealth of Massachusetts Local Aid Fund, (2) the general fund of a city or town, (3) a scholarship fund, or (4) certain charitable and religious organizations. Donations to scholarship funds and charities are subject to certain restrictions. Contact OCPF for more information.

Filing Deadlines

State ballot question committees are required by statute to file periodic campaign finance reports (Form CPF 102 BQ). **These reports must be filed whether or not money has been raised or expended during the reporting period and whether or not the question has passed or failed.** Reports are due to OCPF by the close of business (5:00 p.m.) on the day the report is due. **The treasurer of the committee is personally liable for a $10 per day late fine imposed for each day a report is late.** The following is the schedule for filing reports.

Initial Report: This report should be filed along with Form CPF 101 BQ (Statement of Organization) to disclose any activity that has occurred since the last state election up to the date Form CPF 101 BQ is filed.

60th Day Prior to the Election Report: File on or before the 60th day prior to the election. This report discloses activity undertaken subsequent to the filing of Form CPF 101 BQ and the Initial Report (described above), complete as of the preceding fifth day.

5th and 20th Day of the Month Reports: After filing the report due on the 60th day prior to the election, the committee then files reports on the 5th and 20th day of each month, **up to and including November 20th,** complete as of the preceding 1st and 15th day of the month, respectively.

5th of the Month Reports (after election, for committees with liabilities): Every ballot question committee that has liabilities continues to report on the 5th day of each month, complete as of the 1st of the month, until all declared liabilities have been discharged.

January 20th (for committees without liabilities): Every other ballot question committee without liabilities, which has not otherwise reported on the fifth day of January, must report every January 20th, complete as of the preceding December 31st, as long as the committee remains in existence.

Contributions and Expenditures

The laws regarding ballot question committees are primarily disclosure laws and do not, generally, place limitations on contributions to such committees.

Corporations, including business, professional and not-for-profit corporations, may contribute to ballot question committees without limitation. Any corporation which has given, paid, expended or contributed any money or anything of value in order to influence or affect the vote on any question submitted to the voters must file Form CPF 22 (Report of the Corporate Treasurer). Please contact OCPF for information on filing dates, forms and instructions for completing Form CPF 22. Sole proprietorships, partnerships and other unincorporated businesses are not required to file a Form CPF 22 to disclose ballot question expenditures. However, a ballot question committee receiving contributions from an unincorporated business must disclose those contributions as having been received from the individual partner or proprietor along with the name of the D/B/A or unincorporated business.

- Individuals may contribute to ballot question committees without limitation.

- Trusts, foundations and associations may contribute to ballot question committees without limitation. Groups other than political committees or corporations which have given, paid, expended or contributed any money or any valuable thing in order to influence or affect the vote on any question submitted to the voters must file Form CPF 112 (Report of Association, Organization or Other Group Expending for Ballot Questions). Please contact OCPF for information on filing dates, forms and instructions for completing Form CPF 112.

- Committees organized on behalf of candidates for statewide constitutional office are prohibited from contributing money or anything of value to a ballot question committee. Other candidate committees may contribute without limit to ballot question committees provided the purpose of the contribution is consistent with the purpose for which the committee is organized.

- Political action committees (PACs) may contribute no more than $500 per year to a ballot question committee and may do so only if consistent with the principle for which the PAC was organized.

- Each contributor must furnish the candidate or committee with his or her true name and address at the time the contribution is made.

- In addition to disclosing the name and address for each contributor of more than $50, the occupation and employer of each individual contributing $200 or more must also be disclosed.

- A city, town or other governmental unit may not contribute money or anything of value to a ballot question committee, nor may a city, town or other governmental unit make expenditures or use public resources to promote or oppose any question that appears on a state or municipal ballot. The treasurer of a city, town or other governmental unit which has made such a contribution or otherwise expended money or public resources to promote or oppose a ballot question must file Form CPF 22A (Report of Governmental Treasurer) with the director of OCPF.

- Any contribution exceeding $50 in the aggregate during a calendar year must be made by check. Cash, money orders, cashier's checks, bank checks, payroll deductions, etc. are prohibited in any amounts greater than $50 in the aggregate per contributor per calendar year. Contributions by credit card are prohibited in any amount.

- A ballot question committee may make expenditures only for the principle for which it is organized (e.g., a specific ballot question or questions) and no other.

- Expenditures by a ballot question committee may be made for the enhancement of the principle for which the committee was organized, provided such expenditures are not primarily for anyone's personal use. Expenditures may be made to reimburse an agent of the committee for expenses paid out of pocket for the benefit of, and with the authorization of, the committee, provided that disclosure is made of the original expenditure. For any reimbursement in excess of $50, Form CPF R 1 (Itemization of Reimbursement) must be completed and filed with Form CPF 102 ND.

Restrictions on Public Employees

OCPF administers sections 13 through 17 of M.G.L. Chapter 55. The office has published a "Guide to Political Activity for State, County and Municipal Employees" which is available upon request. These laws on public employees' political activity were designed to:

- Protect public employees from being coerced into providing political contributions or services as a condition of their employment.
- Separate governmental activity from political campaign activity.
- Protect individuals doing business with the state from being coerced into providing political contributions or services.

NO state, county, city or town employee employed for compensation, other than an elected official, may directly or indirectly solicit or receive any contribution or anything of value for ANY political purpose.

If a person is both a public employee and an elected official, the prohibitions against soliciting or receiving political contributions would still apply to him or her.

Soliciting or receiving campaign contributions by anyone in a building occupied for any state, county or municipal purpose is prohibited.

No person in the public service may be compelled to make a political contribution or to render any political service, and no public official or employee may be prejudiced in his or her employment for failure to make a political contribution or be rewarded for making a political contribution.

A political committee may not solicit or receive a contribution on behalf of a candidate who is a state, county or municipal employee if the contributor has an interest in any particular matter in which the state, county or municipal employee participates or which is the subject of his official responsibility.

No public resource may be expended or utilized in order to promote or oppose the nomination or election of any candidate to public office or to promote or oppose any ballot question placed before the voters. Examples

of public resources include: paid staff time of public employees; office equipment; vehicles; buildings; supplies; etc.

In some cases, agency policy or the conflict-of-interest law, M.G.L. c.268A, establishes stricter standards for public employee participation in political activities. Public employees should consult the State Ethics Commission as well as their supervisor or agency head.

Seeking An Advisory Opinion

Anyone wishing to receive guidance regarding campaign finance activities should contact OCPF prior to undertaking a particular activity. This office issues written advisory opinions to individuals based on written requests describing specific facts and circumstances. The office will issue opinions only on prospective activities. If you have any questions concerning advisory opinions, please contact the office. You may also obtain informal, verbal advice by calling the office at the numbers listed in the front of this brochure.

In addition to issuing specific advisory opinions, from time to time the director of OCPF issues Interpretive Bulletins setting policy guidelines on a variety of subjects. These documents are available from OCPF and may be helpful in assisting candidates, committee chairs, treasurers and members of political committees or other organizations.

Filing a Complaint

If you have reason to believe that a violation of the campaign finance law has occurred, you may file a complaint with this office. OCPF reviews all matters brought to its attention, regardless of the source of the complaint. The office keeps the identity of complainants confidential.

The office will not comment on any matter which is under review or investigation. Consequently, an individual making a complaint will not receive periodic information on the status of the complaint. However, the complainant will receive notice of any public disposition of a case.

This office welcomes individuals with information concerning violations of the campaign finance laws to call or write OCPF.

Frequently Asked Questions

Q1: How much may I contribute to a ballot question committee?

A1: An individual may contribute without limitation to a ballot question committee.

Q2: How would I change some information on the previously filed Form CPF 101 BQ (Statement of Organization)?

A2: Any changes to the originally filed Form CPF 101 BQ must be made within 10 days of the actual change. For most changes, a letter of amendment clearly stating the change from the previously filed Form CPF 101 BQ may be filed with OCPF. The only exception to this is in the case of a change of treasurer, for which the treasurer must file a Form CPF T 101 (Change of Treasurer) with OCPF. No monies may be raised or spent by the committee until the new treasurer is qualified for the office.

Q3: May the treasurer and chairman of a committee be the same person?

A3: Yes, unless such person is a public employee. A public employee cannot be a treasurer of any political committee.

Q4: What tax identification number should I give to the bank when opening an account for the committee?

A4: The I.R.S. regulates U.S. revenue laws. Political committees should consult the I.R.S. at 617-536-1040 for information on these laws and how to obtain an I.R.S. tax identification number. In addition, you should contact the Massachusetts Department of Revenue at (617) 727-4545 for information on any state tax requirements which may be applicable. An individual's Social Security number should **not** be used for a tax ID number.

Q5: May a corporation make a contribution to a ballot question committee?

A5: Yes, and it may do so without limitation. M.G.L. c.55, s.22

requires any corporation which has given a contribution or made an expenditure to influence or affect the vote on a question submitted to the voters to file Form CPF 22 (Report of the Corporate Treasurer). Please call OCPF for forms and additional information for this filing.

Q6: Who may be authorized to sign checks on the account?

A6: The treasurer of the committee may authorize an individual to act on the treasurer's behalf. However, that person must abide by all requirements of M.G.L. c.55 and must give the treasurer a detailed account of all actions taken on his or her behalf on demand or, in any event, within three business days.

Q7: I am an appointed public employee. May I ask a friend or family member to contribute to a ballot question committee?

A7: No. Section 13 prohibits this activity at all times.

Q8: I am a government official. May I use the resources of my agency to support or oppose a ballot initiative?

A8: No. The Massachusetts Supreme Judicial Court ruled in *Anderson v. City of Boston* (1978) that the campaign finance law prohibits cities, towns and other governmental units from using their resources or facilities to influence the vote on a ballot question. However, certain policy-making officials may, within limitations, act or speak in their official capacities on ballot questions. Contact OCPF for more information.

Q9: May an organization other than a political committee (labor union, association or other group) make a contribution or expend money to influence a question appearing on a ballot?

A9: Yes. Such an organization may contribute, without limitation, provided that the group files with the office Form CPF 112 (Report of an Association, Organization or Other Group Expending for a Ballot Question) disclosing its contributions or expenditures made to influence the question. Please call OCPF for complete information regarding the filing of this report.

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